

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARQUAN COX,

Plaintiff,

Case No. 24-cv-11507

Hon. Matthew F. Leitman

vs.

HARRELL MILHOUSE,

Defendant.

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**ORDER DISMISSING PLAINTIFF'S**  
**COMPLAINT (ECF No. 1) WITHOUT PREJUDICE**

Plaintiff Marquan Cox is a state inmate currently confined at the Genesee County Jail in Flint, Michigan. On June 10, 2024, Cox filed this action against Harrell Milhouse, his attorney in his state-court criminal case. (*See* Compl., ECF No. 1.) When Cox filed his Complaint, he neither paid the required filing fee nor filed an application to proceed *in forma pauperis*. Accordingly, on June 11, 2024, Magistrate Judge David R. Grand signed an order of deficiency that required Cox to either file pay the \$350.00 filing fee, plus the \$55.00 administrative fee, or submit an application to proceed *in forma pauperis* by no later than July 11, 2024. (*See* Order, ECF No. 3.) Judge Grand further warned Cox that if he failed to pay the required fees or submit completed documents to proceed *in forma pauperis*, his Complaint would be dismissed. (*See id.*) To date, Cox has not paid the required

fees or filed an application to proceed *in forma pauperis*. Thus, for the reasons explained below, the Court will **DISMISS** Cox’s Complaint without prejudice.

## I

The Prisoner Litigation Reform Act of 1995 (the “PLRA”) provides that “if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1) (as amended). *See also In Re Prison Litigation Reform Act*, 105 F.3d 1131, 1138 (6th Cir. 1997). The *in forma pauperis* statute, 28 U.S.C. § 1915(a), however, does provide prisoners the opportunity to make a “downpayment” of a partial filing fee and pay the remainder in installments. *See Boussum v. Washington*, 649 F.Supp.3d 525, 529 (E.D. Mich. 2023). Under the PLRA, a prisoner may proceed *in forma pauperis* if he or she files an affidavit of indigency and a certified copy of the prisoner’s prison trust fund account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C.A. § 1915(a). If an inmate does not pay the full filing fee and fails to provide the required documents, the district court must notify the prisoner of the deficiency and grant him or her thirty days to correct it or pay the full fee. *See McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997). If the prisoner does not comply, the district court must presume that the prisoner is not a pauper, assess the inmate the full fee, and order the case dismissed for want of prosecution. *See id.*

Due to Cox's failure to comply with Judge Grand's June 11 deficiency order by either paying the required fees or submitting a completed application to proceed *in forma pauperis*, the Court will dismiss Cox's Complaint without prejudice. As explained above, Judge Grand provided Cox 30 days to comply with the requirements of the PLRA. But Cox has not responded to the deficiency order in any way. Nor has he contacted the Court to ask for additional time to respond. The Court will therefore dismiss his Complaint for want of prosecution. *See Erby v. Kula*, 113 F. App'x 74, 75-76 (6th Cir. 2004); *Davis v. United States*, 73 F. App'x 804, 805 (6th Cir. 2003).

## II

For all of the reasons discussed above, Cox's Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(a)(1) and (b)(1) and (2) for failing to comply with the filing requirements of the PLRA and failing to comply with the July 11 deficiency order. Nothing in this order precludes Cox from filing a new action under a new case number so long as he pays the filing and administrative fees or provides the complete and correct information necessary to proceed *in forma pauperis*.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 24, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 24, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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